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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 AUGUST IMAGE, LLC, a New York
12 Limited Liability Company,

13
14 Plaintiff,

15 v.

16 THE BOLDEN COMPANY, LLC, d/b/a
17 "BOLDENUSA," a Texas Limited Liability
18 Company; and DOES 1 through 10,
19 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT
FOR COPYRIGHT INFRINGEMENT

Jury Trial Demanded

1 August Image, LLC, by and through its undersigned attorneys, hereby prays to
2 this honorable Court for relief based on the following:

3 **JURISDICTION AND VENUE**

4 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101 *et*
5 *seq.*

6 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 1338
7 (a) and (b).

8 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a)
9 in that this is the judicial district in which a substantial part of the acts and omissions
10 giving rise to the claims occurred.

11 **PARTIES**

12 4. Plaintiff August Image, LLC (“AUGUST”) is a New York limited liability
13 company with its principal place of business located at 793 Broadway, New York,
14 NY 10003. August, a full-service rights managed collection, represents an elite
15 group of portrait, lifestyle, beauty, and fashion photographers for editorial and
16 commercial licensing. As the exclusive publisher, administrator, and syndicator of
17 the photographs at issue in this case and the copyrights therein, August is entitled to
18 institute and maintain this action under 17 U.S.C. § 501(b).

19 5. Plaintiff is informed and believes and thereon alleges that Defendant The
20 Bolden Company, LLC d/b/a “BoldenUSA” (“BoldenUSA”) is a limited liability
21 company organized and existing under the laws of the state of Texas with its
22 principal place of business located at 1336 Franklin Wind Place, El Paso, Texas
23 79912, and is doing business in and with the state of California, including by
24 contracting with authorized vendors located within this District
25 (<https://www.boldenusa.com/pages/store-locator> last accessed on Apr. 2, 2024).
26 BoldenUSA is the owner, operator, and/or controller of its Instagram account at
27 <https://www.instagram.com/boldenusa/> (“BoldenUSA’s Website”).

1 6. Plaintiff is informed and believes and thereon alleges that Defendants
2 DOES 1 through 10, inclusive, are other parties not yet identified who have infringed
3 Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights,
4 or have engaged in one or more of the wrongful practices alleged herein. The true
5 names, whether corporate, individual or otherwise, of Defendants 1 through 10,
6 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants
7 by such fictitious names, and will seek leave to amend this Complaint to show their
8 true names and capacities when same have been ascertained.

9 7. Plaintiff is informed and believes and thereon alleges that at all times
10 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
11 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
12 at all times acting within the scope of such agency, affiliation, alter-ego relationship
13 and/or employment; and actively participated in or subsequently ratified and/or
14 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
15 circumstances, including, but not limited to, full knowledge of each violation of
16 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.


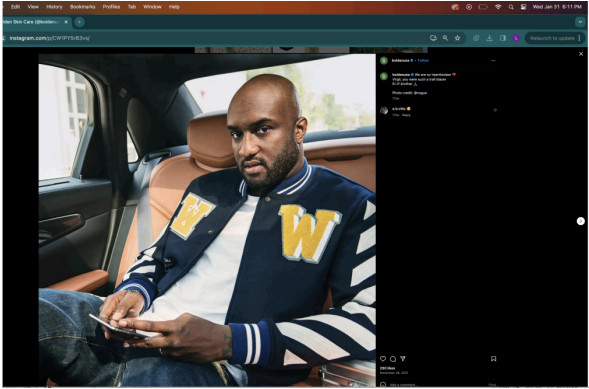

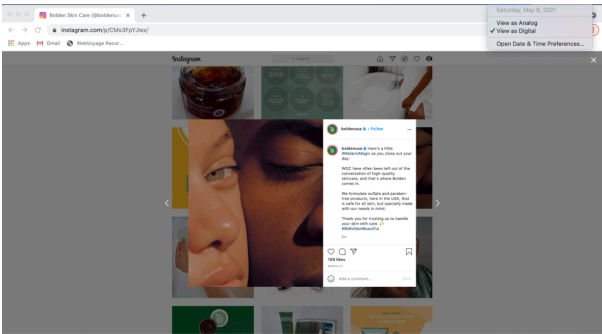
17 **CLAIMS RELATED TO THE SUBJECT PHOTOGRAPHS**

18 8. By virtue of contractual assignment with the photographer, August is the
19 sole and exclusive agent and representative for the licensing and use of two original
20 photographs (and the copyrights therein) registered with the U.S. Copyright Office
21 (collectively, the "Subject Photographs"). Pursuant to that assignment, August has
22 full and complete authority to pursue the unauthorized use of said images and
23 standing to bring this action under 17 U.S.C. § 501(b).

24 9. Plaintiff is informed and believes and thereon alleges that following its
25 publication and display of the Subject Photographs, BOLDENUSA, DOE
26 Defendants, and each of them used the Subject Photographs without Plaintiff's
27 authorization for commercial purposes in various ways, including, but not limited to,
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the use on BoldenUSA’s Website without a license or consent from August (collectively, the “Accused Posts”).

10. Screen captures of said uses are set forth hereinbelow:

#	Subject Photographs	Accused Posts
1	 <p>AU1993152.JPG VA 2-198-311</p>	
2	 <p>AU260597.JPG VA 2-205-482</p>	

1 11.To the extent BoldenUSA exploited the Accused Posts (and/or any/all other
2 copies of the Subject Photographs) on BoldenUSA's Website more than three years
3 before the filing of this case, August did not know, and had no reason to know, of
4 such exploitation(s).

5 **FIRST CLAIM FOR RELIEF**

6 (For Copyright Infringement - Against All Defendants, and Each)

7 12. Plaintiff repeats, realleges and incorporates herein by reference as though
8 fully set forth the allegations contained in the preceding paragraphs of this
9 Complaint.

10 13. Plaintiff is informed and believes and thereon alleges that Defendants, and
11 each of them, had access to the Subject Photographs, including, without limitation,
12 through Plaintiff's website and social media accounts or viewing the Subject
13 Photographs on third-party websites (e.g., Tumblr, Pinterest, etc.).

14 14. Plaintiff is informed and believes and thereon alleges that Defendants, and
15 each of them, used and distributed images of the Subject Photographs, and exploited
16 said images in multiple website posts without Plaintiff's authorization or consent.

17 15. Due to Defendants', and each of their, acts of infringement, Plaintiff has
18 suffered damages in an amount to be established at trial.

19 16. Due to Defendants', and each of their, acts of copyright infringement as
20 alleged herein, Defendants, and each of them, have obtained profits they would not
21 otherwise have realized but for their infringement of the Subject Photographs. As
22 such, Plaintiff is entitled to disgorgement of Defendants', and each of their, profits
23 attributable to the infringement of the Subject Photographs in an amount to be
24 established at trial.

25 17. Plaintiff is informed and believes and thereon alleges that Defendants, and
26 each of them, have committed copyright infringement with actual or constructive
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1 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
2 and continue to be, willful, intentional and malicious.

3 **PRAYER FOR RELIEF**

4 Wherefore, Plaintiff prays for judgment as follows:

- 5 a. That Defendants—each of them—and their respective agents and
6 servants be enjoined from importing, manufacturing, distributing,
7 offering for sale, selling or otherwise trafficking in any product that
8 infringes Plaintiff's copyrights in the Subject Photographs;
9 b. That Plaintiff be awarded all profits of Defendants, and each of them,
10 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,
11 or, if elected before final judgment, statutory damages as available under
12 the Copyright Act, 17 U.S.C. § 101 et seq.;
13 c. That Plaintiff be awarded its attorneys' fees as available under the
14 Copyright Act U.S.C. § 101 et seq.;
15 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
16 e. That Plaintiff be awarded the costs of this action; and
17 f. That Plaintiff be awarded such further legal and equitable relief as the
18 Court deems proper.

19 **JURY DEMAND**

20 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
21 38 and the 7th Amendment to the United States Constitution.

22
23 Dated: April 8, 2024

DONIGER/BURROUGHS

24 By: /s/ Stephen M. Doniger
25 Stephen M. Doniger, Esq.
26 Benjamin F. Tookey, Esq.
27 Attorneys for Plaintiff
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